

Adulteration of the article was alleged in the libel for the reason that a substance, water, had been mixed and packed with and substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement in the label "140 Pounds," was false and misleading and deceived and misled the purchaser, and for the further reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On April 29, 1924, John C. Brockmeier, trading as Brockmeier & Co., St. Louis, Mo., having appeared as claimant for the property and having consented to the entry of a decree, judgment of condemnation was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a good and sufficient bond, in conformity with section 10 of the act, conditioned in part that the sacks be relabeled under the supervision of this department and that the sacks be refilled to the correct quantity of contents.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12358. Adulteration and misbranding of chocolate candies. U. S. v. 25 Boxes and 30 Boxes of Chocolate Products. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 18426. I. S. Nos. 15427-v, 15428-v. S. No. E-4755.)

On March 3, 1924, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 55 boxes of chocolate candies remaining in the original unbroken packages at Providence, R. I., alleging that the article had been shipped by the Lauer & Suter Co. from Baltimore, Md., in part on or about January 21, and in part on or about January 26, 1924, and transported from the State of Maryland into the State of Rhode Island, and charging adulteration and misbranding in violation of the food and drugs act. A portion of the article was labeled in part: (Box) "L & S * * * 120—Choc Cream Crosses—120 Pure Candies The Lauer & Suter Co. Baltimore, Md." The remainder of the said article was labeled in part: (Box) "L & S * * * 120—Choc. Cr. Jazz Rabbits—120 Pure Candies The Lauer & Suter Co. Baltimore, Md."

Adulteration of the article was alleged in the libel for the reason that foreign fat had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statements appearing in the labeling, "Choc Cream * * * Pure Candies" and "Choc. Cr. * * * Pure Candies," as the case might be, were false and misleading and deceived and misled the purchaser in that the product contained a foreign fat, to wit, cocoanut fat. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On May 9, 1924, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12359. Adulteration and misbranding of canned oysters. U. S. v. 1,410 Cases of Oysters. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. Nos. 18515, 18516, 18517, 18518, 18519, 18520, 18521, 18522, 18523, 18524, 18525. I. S. Nos. 18027-v, 18040-v, 18041-v, 4744-v. S. No. C-4322.)

On March 31, 1924, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 1,410 cases of oysters remaining in the original packages in various lots at Lexington, Hazard, London, Burnside, Maysville, Lawrenceburg, and Hutchison, Ky., respectively, consigned by the Marine Products Co., New Orleans, La., from Biloxi, Miss., January 19, 1924, alleging that the article had been shipped from Biloxi, Miss., and transported from the State of Mississippi into the State of Kentucky, and charging adulteration and misbranding in violation of the food and drugs act, as amended. The article was labeled in part: "Konisur Brand * * * Cove Oysters Packed By Sea Food Co. Biloxi, Miss., U. S. A. Contents 5 Ounces."

Adulteration of the article was alleged in the libel for the reason that a substance, excessive brine, had been mixed and packed with¹ and substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement in the labels, "Contents 5 Ounces," was false and misleading and deceived and misled the purchaser, and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 20, 1924, the Sea Food Co., Biloxi, Miss., claimant, having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that it be relabeled to bear the following statements: "Slack Filled. Contains excessive brine. Minimum contents 4 oz. Oyster Meat. This size can should contain 5 Oz. Oyster Meat."

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12360. Adulteration and misbranding of canned oysters. U. S. v. H. J. McGrath Co., a Corporation. Plea of guilty. Fine, \$1 and costs. (F. & D. No. 17238. I. S. No. 13468-t.)

At the April, 1924, term of the United States District Court within and for the District of Maryland, the United States attorney for said district, acting upon a report by the Secretary of Agriculture, filed in the district court aforesaid an information against the H. J. McGrath Co., a corporation, trading at Baltimore, Md., alleging shipment by said company, in violation of the food and drugs act as amended, on or about December 31, 1921, from the State of Maryland into the State of Kansas of a quantity of canned oysters which were adulterated and misbranded.

Examination of 12 cans of the article by the Bureau of Chemistry of this department showed an average weight of 9.2 ounces.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, excessive brine, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and had been substituted in part for oysters, which the said article purported to be.

Misbranding was alleged for the reason that the statements, to wit, "Oysters" and "Contents 10 Oz.," borne on the labels attached to the cans containing the article regarding the said article, were false and misleading in that they represented that the article consisted wholly of oysters, and that each of the said cans contained not less than 10 ounces thereof, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of oysters, and that each of the said cans contained not less than 10 ounces thereof, whereas, in truth and in fact, it did not consist wholly of oysters but did consist in part of excessive brine, and each of the said cans did not contain 10 ounces of the article but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On April 6, 1924, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$1 and costs.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12361. Adulteration and misbranding of compound oil and olive oil. U. S. v. Joseph Flione, Pantell Themo, and Louis Berrish (Flione-Themo & Co.). Plea of nolo contendere by Flione. Fine, \$25. (F. & D. No. 17786. I. S. Nos. 1690-v, 1691-v, 1693-v, 1694-v.)

On November 12, 1923, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Joseph Flione, Pantell Themo, and Louis Berrish, copartners, trading as Flione-Themo & Co., Boston, Mass., alleging shipment by said defendants, in violation of the food and drugs act as amended, in various consignments, namely, on or about January 13 and 25, 1923, respectively, from the State of Massachusetts into the State of New Hampshire, of quantities of compound oil, a portion of which was misbranded, and the remainder of which was adulterated and misbranded, and of a quantity of olive oil which was adulterated and misbranded. The compound oil was labeled in part: (Can) "Net Contents One Quart" (or "Net Contents Half Gallon") "Adriatic Brand Superior Quality * * * Oil